

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

CHARLES DEPALMER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	
HARBOR FREIGHT TOOLS)	
USA, INC.)	
)	
Defendant.)	

COMPLAINT AND JURY DEMAND

1. This is an action for personal injuries arising from an incident which occurred in Littleton, New Hampshire, on October 20, 2018. This Court has jurisdiction of the action pursuant to 28 U.S.C. § 1332 based upon diversity of citizenship. The Plaintiff, Charles DePalmer is resident of Connecticut, the Defendant, Harbor Freight Tools USA, Inc. is a corporation with a principal place of business located in California, and the amount in controversy exceeds \$75,000.00.

THE PARTIES

2. The Plaintiff, Charles DePalmer, is an individual residing in North Haven, CT.
3. The Plaintiff, Charles DePalmer, is an experienced handyman and has performed carpentry, light plumbing, painting and landscaping services for approximately 20 years.
4. The Defendant, Harbor Freight Tools USA, Inc., is a duly constituted corporation with a principal place of business at 26541 Agoura Road, Calabasas, CA.

5. At all times material hereto, the Defendant, Harbor Freight Tools USA, Inc., was in the business of manufacturing, distributing, and selling power tools.
6. At all times material hereto, the Defendant, Harbor Freight Tools USA, Inc., had significant ties to the state of New Hampshire through their ownership and operation of a Harbor Freight Tools retail store located at 160 Meadow Street, Littleton, NH.
7. At all times material hereto, the Defendant, Harbor Freight Tools USA, Inc., acted as a commercial seller of power tools out of Harbor Freight Tools retail stores throughout the United States, including the state of New Hampshire.
8. At all times material hereto, the Defendant, Harbor Freight Tools USA, Inc., manufactured a line of power tools known as Chicago Electric.
9. At all times material hereto, the Defendant, Harbor Freight Tools USA, Inc., acted as a commercial seller of their Chicago Electric line of power tools.
10. On August 28, 2018, the Defendant, Harbor Freight Tools USA, Inc., sold a Chicago Electric Model 61972 compound miter saw to Plaintiff, Charles DePalmer's son, Charles DePalmer, Jr., out of Defendant's retail store, Harbor Freight Tools, located at 160 Meadow Street, Littleton, NH.
11. The subject saw was defective, unreasonably dangerous, and unsuited for its intended purpose in that a defectively manufactured/installed and/or defectively designed spring caused the saw blade guard to reside in an overly closed position causing the saw head to jam when lowered.
12. On October 20, 2018, the Plaintiff, Charles DePalmer was operating the subject miter saw at his son, Charles DePalmer, Jr.'s house, located at 22 Cedarwood Mobile Home Park, Littleton, NH consistent with its foreseeable and intended use and in good care.
13. On that same date and time, when the Plaintiff, Charles DePalmer, lowered the saw head to cut a floor board when the defectively manufactured/installed and/or designed spring caused the miter saw head to jam which in turn caused the plywood platform to which the saw was affixed to flip over.

14. As the subject miter saw flipped over, the saw blade struck the Plaintiff, Charles DePalmer's left forearm causing an extensive, deep, and complex laceration.
15. The Plaintiff, Charles DePalmer's laceration was caused by the defectively manufactured and/or designed miter saw which was manufactured, designed, and sold by the Defendant, Harbor Freight Tools USA, Inc.
16. The Plaintiff, Charles DePalmer's laceration was caused by the Defendant, Harbor Freight Tools USA, Inc.'s negligent manufacturing and/or design and sale of the defective miter saw.
17. The Plaintiff, Charles DePalmer's laceration was caused by the Defendant, Harbor Freight Tools USA, Inc.'s breach of warranty in their manufacturing and/or design and sale of the defective miter saw.
18. As a direct and proximate result of the Defendant, Harbor Freight Tools USA, Inc.'s strict liability, negligence, and breach of warranty, the Plaintiff, Charles DePalmer, suffered serious injuries to his left forearm including a complete laceration of the median nerve, the superficial radial nerve, multiple tendons, the radial artery, and an open fracture to the radial shaft all requiring emergency surgical repair, a second surgery involving a nerve autograft, ongoing medical treatment and care, all causing severe and permanent disability to the left arm and hand with permanent nerve damage, muscular atrophy, permanent weakness, and the inability to properly and effectively utilize the left arm and hand, was prevented from transacting his business and will continue to be prevented from transacting business, suffered great pain of body and mind, and incurred expense for medical attention and hospitalization in excess of \$150,000 and rising.
19. All conditions precedent to this action have occurred or been performed.

COUNT ONE – STRICT LIABILITY

20. The Plaintiff, Charles DePalmer repeats and incorporates the allegations contained in paragraphs 1-19 as if fully stated herein.
21. The Defendant, Harbor Freight Tools USA, Inc. defectively manufactured, defectively designed and sold the subject defective miter saw which flipped over causing the Plaintiff, Charles DePalmer's forearm injuries.
22. As a direct and proximate result of the Defendant, Harbor Freight Tools USA, Inc.'s strict liability, the Plaintiff, Charles DePalmer, suffered serious injuries to his left forearm including a complete laceration of the median nerve, the

superficial radial nerve, multiple tendons, the radial artery, and an open fracture to the radial shaft all requiring emergency surgical repair, a second surgery involving a nerve autograft, ongoing medical treatment and care, all causing severe and permanent disability to the left arm and hand with permanent nerve damage, muscular atrophy, permanent weakness, and the inability to properly and effectively utilize the left arm and hand, was prevented from transacting his business and will continue to be prevented from transacting business, suffered great pain of body and mind, and incurred expense for medical attention and hospitalization in excess of \$150,000 and rising.

WHEREFORE, the plaintiff, Charles DePalmer, demands judgment against the Defendant, Harbor Freight Tools USA, Inc., plus interest and costs.

COUNT TWO – NEGLIGENCE

23. The Plaintiff, Charles DePalmer repeats and incorporates the allegations contained in paragraphs 1-22 as if fully stated herein.
24. The Defendant, Harbor Freight Tools USA, Inc., owed the Plaintiff, Charles DePalmer, a duty to manufacture, design and sell a safe, non-defective product.
25. The Defendant, Harbor Freight Tools USA, Inc., breached their duty by defectively manufacturing, defectively designing and selling the Plaintiff, Charles DePalmer, an unsafe, defective product, here a defective miter saw.
26. As a direct and proximate result of the Defendant, Harbor Freight Tools USA, Inc.'s negligence, the Plaintiff, Charles DePalmer, suffered serious injuries to his left forearm including a complete laceration of the median nerve, the superficial radial nerve, multiple tendons, the radial artery, and an open fracture to the radial shaft all requiring emergency surgical repair, a second surgery involving a nerve autograft, ongoing medical treatment and care, all causing severe and permanent disability to the left arm and hand with permanent nerve damage, muscular atrophy, permanent weakness, and the inability to properly and effectively utilize the left arm and hand, was prevented from transacting his business and will continue to be prevented from transacting business, suffered great pain of body and mind, and incurred expense for medical attention and hospitalization in excess of \$150,000 and rising.
27. WHEREFORE, the plaintiff, Charles DePalmer, demands judgment against the Defendant, Harbor Freight Tools USA, Inc., plus interest and costs.

COUNT THREE – BREACH OF WARRANTY

28. The Plaintiff, Charles DePalmer repeats and incorporates the allegations contained in paragraphs 1-27 as if fully stated herein.
29. The Defendant, Harbor Freight Tools USA, Inc., expressly and/or impliedly warranted to the Plaintiff, Charles DePalmer, that he would be sold a safe, non-defectively manufactured and/or designed product, here a miter saw.
30. The Defendant, Harbor Freight Tools USA, Inc., breached their express and/or implied warranty by selling the Plaintiff, Charles DePalmer, a defectively manufactured and/or designed miter saw.
31. As a direct and proximate result of the Defendant, Harbor Freight Tools USA, Inc.'s breach of warranty, the Plaintiff, Charles DePalmer, suffered serious injuries to his left forearm including a complete laceration of the median nerve, the superficial radial nerve, multiple tendons, the radial artery, and an open fracture to the radial shaft all requiring emergency surgical repair, a second surgery involving a nerve autograft, ongoing medical treatment and care, all causing severe and permanent disability to the left arm and hand with permanent nerve damage, muscular atrophy, permanent weakness, and the inability to properly and effectively utilize the left arm and hand, was prevented from transacting his business and will continue to be prevented from transacting business, suffered great pain of body and mind, and incurred expense for medical attention and hospitalization in excess of \$150,000 and rising.
32. WHEREFORE, the plaintiff, Charles DePalmer, demands judgment against the Defendant, Harbor Freight Tools USA, Inc., plus interest and costs.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL COUNTS

The Plaintiff,
CHARLES DEPALMER
By His attorney,

/s/ Joseph J. Russo, Esq.

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